



Dore Primary School

School Staffing Restructure & Redundancy Policy

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PREAMBLE

This policy provides guidance for Headteachers and Chairs of Governors on how to manage staffing restructures and potential redundancy situations in their school. It has been drawn up by Sheffield City Council in consultation with the recognised trade unions for teachers and support staff.

In managing restructures and potential redundancy situations, there may well be special circumstances which are not covered by the guidance provided by this document. You are therefore advised to contact your human resources provider at the outset of any such process and advice should be taken in relation to the particular facts of the matter at hand.

Though the decision to dismiss by reason of redundancy is, as stated in section 57 of the School Standards and Framework Act 1998, a matter for the Governing Body, Sheffield City Council remains the employer in community, community special and voluntary controlled schools. In the case of voluntary aided, foundation and trust schools, the Governing Body is the employer, although, under the Local Government Pension Scheme Regulations 2008, the Council acts in the majority of cases as the employer for purposes of local government pensions.

Please note that you are required to amend any elements of this policy that are shaded red. In the majority of cases, these elements reflect the different requirements placed on community schools, for which the Local Authority is the employer, and those schools for which the Governing Body is the employer

SECTION 1 INTRODUCTION

The Governing Body of Dore Primary School adopted this policy for employees of the school on 8th February 2018.

The Governing Body will review it in 3 to 4 years.

1.1 Introduction

According to the definition in Section 139 of the Employment Rights Act 1996, redundancy arises where an employee is dismissed either:

- because the employer has ceased (or intends to cease) to carry on business; or
- because the employer's requirements for employees to carry out work of a particular kind in the place where s/he is employed have ceased or diminished (or are expected to do so).

The Governing Body of Dore Primary School recognises that it is good practice for every employer to provide, as far as possible, security of employment for its workers. However, the school will also regularly review its staffing structures to ensure that the management and deployment of all staff, and the allocation of responsibilities and duties, is effective and focussed on teaching and learning.

Where potential redundancies do arise, the Governing Body will work with trade unions and the school's HR provider to seek to avoid these through the consideration of alternative employment and other options. These include:

- reviewing the impact of employee turnover
- restricting recruitment
- filling internal vacancies from the existing staff group
- training or retraining

- secondments
- job-shares and voluntary reduction in hours
- granting voluntary early retirement

We will also look to mitigate the potential impact of compulsory redundancies by offering employees the opportunity to apply for voluntary redundancy.

In addition, wherever potential redundancy situations arise, the Governing Body commits to:

- give staff as much notice as possible
- consult with recognised trade unions and/or employee representatives about ways of avoiding or minimizing the need for redundancies
- seek to achieve any reduction in a fair and sensitive manner
- establish, in consultation with the unions, the selection criteria and how such criteria will be applied
- ensure that the criteria are fair, objective and non-discriminatory
- agree a realistic timescale for the implementation of any restructure or redundancy process

1.2 Purpose of this policy

This policy covers both teaching and support staff and its purpose is to set out how the Governing Body will manage:

- staffing restructures
- potential redundancy situations (whether arising from restructure or otherwise)

It will ensure that the school:

- adheres to relevant legislation and protocols
- has a consistent and fair approach to the management and funding of restructures and redundancies
- manages the financial risk of any redundancy costs
- seeks, wherever possible, to avoid compulsory redundancies

1.3 Scope of the policy

This policy covers all staff members who are contractually employed by the school at the start of consultation, regardless of their length of service.

Employees on fixed-term contracts will not be treated less favourably than employees on indefinite contracts. Although a fixed-term contract may be terminated early by reason of redundancy, employees will not be selected for redundancy as a *consequence* of their contractual status.

The conditions for entitlement to redundancy payment are set out in section 14.

1.4 Financial implications

Historically, redundancy costs incurred by schools were covered by a central fund which was financed by the Dedicated Schools Grant. However, following the consultation that took place with schools in 2012 about schools funding reform and the agreement of a new formula, this budget was devolved to schools from April 2013.

This means that the funding for redundancy, voluntary severance and early retirement costs associated with redundancy – including the cost of early access to pensions – became the responsibility of schools from 1 April 2013.

SECTION 2 ROLES AND DEFINITIONS

As the Headteacher will have direct involvement in implementing redundancy procedures, any dismissal on the grounds of redundancy will be undertaken by a Selection Panel (sometimes referred to as a Redundancy Panel). The Selection Panel will be made up of a minimum of three governors. In addition, the Governing Body will set up an Appeal Panel. The number of governors on the Appeal Panel will not be fewer than sit on the Selection Panel. No governor will be a member of both panels. To ensure impartiality, staff governors will not be members of either panel. Governors will

give advance consideration to the composition of each panel.

In order to ensure that the respective roles are fulfilled appropriately and in line with best practice, both the Headteacher and the Governing Body will seek specialist advice from an HR provider.

2.1 Headteacher

It is the Headteacher's responsibility to:

- lead the consultation process
- provide information to staff, trade unions and governors
- provide appropriate advice to the governors' selection and appeal panels on redundancy selection matters and staffing requirements
- ensure that the appropriate paperwork is issued to the Local Authority, the trade unions and staff

2.2 Governing Body

It is the Governing Body's responsibility to:

- ensure that copies of both this policy and the redeployment policy are readily available to all school employees and to representatives of the recognised trade unions
- form selection and appeal panels at the outset of the process to deal with matters of redundancy selection
- ensure that accurate records are kept of the decision-making process and of the reasoning at each stage of that process
- to ensure that governors are clear about the financial position of the school and to consider advice from the Local Authority and the school's HR provider before commencing formal consultation with staff and trade unions

2.3 The Local Authority

The Local Authority will:

- receive written information from the governing body regarding any potential redundancy situations
- inform the Insolvency Service Redundancy Payments Service of potential redundancies through submission of a Form HR1 at least 30 days (for 20 to 99 employees) or at least 45 days (for 100 or more employees) before dismissal
- conduct collective consultation with the trade unions
- receive requests for the approval of redundancy decisions
- ensure issue of dismissal notices

SECTION 3 PLANNING STAGE

3.1 Identifying the need for a school staffing review

The need to make a change to the school's current staffing structure may arise for a number of reasons. These include:

- changing curriculum requirements
- changes in legislation and policies or new initiatives at either a local or national level
- a change in the number or requirements of pupils
- budget changes
- improved/best practice ways of working
- school reorganisation, including closures

It is the Governing Body's responsibility to formulate the most appropriate staffing structure to ensure that the management and deployment of all staff, and the allocation of responsibilities and duties, is effective and focussed on teaching and learning. In practice, the Headteacher will lead the initial stages of any review and develop a draft staffing model on behalf of the Governing Body.

Where redundancies are required and there is no staffing restructure, please go straight to section 3.5

3.2 Formulating the draft staffing structure

The Headteacher will formulate a draft staffing structure and implementation plan to be put to the governing body for approval as a basis for consultation.

In drafting the staffing structure, the Headteacher will give consideration to the broad objectives and principles that the school is seeking to achieve with its new structure. These will take account of the principles of school workforce reform, namely that the resource of qualified teachers should be focused on issues concerned with teaching and learning, whilst a range of other essential activities within the school are better undertaken by support staff. The principles determined by the school will reflect and complement national statutory provisions and national agreements, and not contradict or change them.

3.2.1 Change of headteacher

If it is known in advance that the school's headteacher will change during the review period, both the current and the future leadership will be involved in the review process.

3.2.2 Considering the staffing structure

When developing the draft structure and implementation plan, the Headteacher will consider a range of factors, including:

- the school's improvement priorities; and
- the principles underpinning the review.

The most important task will involve mapping the school's improvement priorities, together with the overarching principles already discussed with staff, onto a structure of posts of different grades and types – both for teaching and support staff – designed to deliver the school's priorities as efficiently and effectively as possible.

Costing the revised structure will also be a crucial part of the process. In assessing this, the Headteacher will take into account the number and cost of each type of post they wish to have in the structure (e.g. leadership, TLRs and support staff), whilst ensuring it is affordable in respect of the school's current and projected future financial position. The draft structure will also take into account equal pay considerations to militate against potential legal challenges.

In devising the structure, the Headteacher will take into account all previously held responsibilities, paid or unpaid, and consider those for which there is a continuing need.

3.2.3 Identifying posts and postholders

For each post, there will be a draft job description. Each job description will include:

- the purpose of the post.
- the post to which the postholder reports.
- the posts line managed by the postholder.
- the generic responsibilities.
- the responsibilities specific to the post.

Using the draft job descriptions to inform the decision, the Headteacher will need to clearly indicate (without assigning individual names):

- which posts are new;
- which posts are largely unchanged and are at least a 75% match to an existing responsibility; and
- which posts are a combination of several responsibilities previously in the structure.

3.2.4 Safeguarding

Staff at all levels will be protected by the salary safeguarding arrangements from sudden drops in total salary which might occur as a result of the proposed changes. For

teachers this will be in-line with the School Teachers' Pay and Conditions Document (currently three years). For support staff, safeguarding will apply for two years to a maximum of one grade above the new role.

3.3 Sharing the draft staffing structure with staff and trade unions

Before presenting the draft staffing structure and implementation plan for the Governing Body's approval as a basis for consultation, the Headteacher will share the provisional plans informally with staff and the recognised trade unions with a view to ensuring that the governing body is fully informed of their likely reception.

3.4 Agreeing the draft structure prior to consultation

When the draft structure is presented for consideration by the full governing body, staff governors will be invited as usual and may participate in the debate.

3.4.1 Disclosing conflicts of interest

Any governor, staff or otherwise, with a pecuniary interest or other conflict of interest in the matters under discussion must disclose it and, if necessary, withdraw from the meeting in accordance with the School Governance (Roles, Procedures and Allowances) (England) Regulations 2013. This does not mean, however, that governors who are also members of staff should automatically be excluded from the discussion of the draft structure on the basis that they have a pecuniary interest in the matter. The procedures set out the circumstances in which a person will and will not be considered to have a pecuniary interest and provide, in particular, that a governor: 'will not be treated as having a pecuniary interest in any matter provided that the value of the relevant person's pecuniary interest is no greater than that of the pecuniary interest commonly held by those paid to work at the school.'

3.4.2. Information required by the Governing Body

In order to make informed decisions about the proposals the governing body members will be provided in writing with:

- the draft revised structure, including costings (at this stage, no named individuals will be identifiable in any part of the structure, but the structure will identify whether the posts are new, comprised of several existing responsibilities or a post for matching ('slotting in') of responsibilities).
- draft job descriptions.
- the current structure and costs of each of the posts and an analysis of the implications of the new structure.
- details of the implications for the school budget, including the impact of any enhancements.
- the school's self-improvement plan or equivalent.
- the draft implementation plan.

3.4.3 Consideration by Governors

Governors will be clear that the proposed draft structure and implementation plan they are being asked to approve is a basis for consultation. It will be made clear in discussion and in the minutes of the meeting that governors will consider seriously suggestions from consultees for amendment. The governing body may also wish to make its own amendments to the draft before approving it as a basis for consultation.

The timeline for managing the consultation and the final decisions will be set out in writing. This will include the date of the meeting at which the Governing Body is expected to consider the outcome of the consultation and adopt the final structure. This document will be shared at the first consultation meeting with staff and the recognised unions.

3.5 Appointing the panels

Before the school staffing review begins, the Governing Body will set up two panels of governors to deal with the review/redundancy process:

- a Selection Panel; and
- an Appeal Panel

These panels will be nominated and agreed by the fully quorate Governing Body. The Governing Body will delegate authority to both panels to make decisions on its behalf.

3.6 The Governors' Selection Panel

The Governors' Selection Panel will, wherever possible, have a minimum of three members. (In exceptional circumstances, where it is not reasonably practical to comply with this requirement, there may be two members.)

The responsibilities of the Selection Panel relate to managing the consultation and subsequent implementation. They include:

- establishing the selection processes/criteria by which staff will be identified either for redundancy or for positions in the new structure (criteria will be proposed early enough in the process to allow for meaningful consultation)
- consulting with employees and the recognised trade unions in relation to the restructure/redundancy process and responding to feedback received during the consultation process
- considering voluntary applications for redundancy, reduction in hours, redeployment or any other proposal that mitigates the possibility of the compulsory redundancies
- selecting and appointing to posts within the structure and, if necessary, selecting employees for redundancy
- hearing and responding to representations from employees

3.7 The Governors' Appeal Panel

The Appeal Panel must have at least the same number of members as the Selection Panel. Members of the Appeal Panel must not have been previously involved in the process other than being part of the full Governing Body meeting at which the restructure/redundancy proposals were approved.

The Appeal Panel will:

- hear appeals from employees against the decision of the Selection Panel
- consider whether to uphold the Selection Panel's decision and inform employees accordingly

3.8 Composition of the two panels

- Each panel will nominate one of its members as Chair
- Governors will consider whether any member of either panel has any conflicts of interest that would prevent them from being a member
- A governor cannot sit on both panels
- Staff governors cannot be on either panel
- The Headteacher has a legal right to attend panel meetings and will do so in an advisory and management capacity
- Wherever possible, both panels will have an appropriate gender and ethnic mix.
- Wherever required, the Headteacher and Governing Body will seek professional HR advice. A representative of the school's HR provider may attend panel meetings to ensure proceedings are fair and appropriate
- The Executive Director of Children, Young People and Families – or their nominated representative – has the right to attend at both panel stages for the purposes of giving advice where dismissal is being considered

3.9 Preparing the consultation documentation

The Governing Body recognises the importance and mutual benefit of providing staff

and trade unions with as much information as possible about any proposed restructure. The consultation documentation will therefore include, where possible:

- the draft revised structure, including costings (at this stage, no named individuals will be identifiable in any part of the structure, but the structure will identify whether the posts are new, comprised of several existing responsibilities or a post for matching ('slotting in') of responsibilities)
- details of any proposed enhancements offered by the Governing Body for employees taking voluntary redundancy
- an explanation of the need for the changes and why they are required (the business case). This will include budget, benchmarking (comparative data) and costing information as appropriate
- an explanation of the service benefits the changes will bring about (unless it is a straightforward reduction in staffing due to budget shortfalls)
- strategies considered and/or implemented to avoid redundancy
- strategies considered and/or implemented to reduce the number of employees to be dismissed and to mitigate the consequences of any such dismissals
- the school's reorganisation and redundancy policy
- existing and proposed draft job descriptions
- details of any agency workers, where applicable, and the type of work they are undertaking
- the current structure and costs of each of the posts and an analysis of the implications of the new structure
- details of the implications for the school budget
- the draft implementation plan, with timescales and an indication when activities will be carried out, who is responsible for the required actions and who will be involved
- proposed redundancy selection criteria including weightings and the assessment and selection methods, or the process for recruitment to the new structure, and information about any other method that will be considered in order to achieve the proposed change (e.g. reduction in hours)
- contact details of the person to whom written comments should be made

3.9.1 Ensuring staff are treated equally

Before launching the consultation document (see section 8.2), the school will take into account employment law considerations, such as the treatment of part-time employees, those on fixed-term contracts, expectant mothers and employees on maternity or paternity leave. It will also ensure that staff who are absent from school (e.g. on sickness leave, maternity or paternity leave, secondments etc.) are included in the consultation process.

SECTION 4 THE PROPOSED SELECTION CRITERIA

Employees can be selected for redundancy by:

- Volunteering
- Being selected by application of selection criteria
- The process of recruiting to the new posts/new structure (i.e. where they are not successfully appointed to a post)

If compulsory redundancy cannot be avoided, draft selection criteria and the method of selection will be agreed by the Selection Panel. The selection criteria (including any possible 'tie break') will then be set out, in draft, as part of the consultation process. The Governing Body will seek HR advice from its provider to ensure that the selection criteria are fair, equitable and in accordance with legislation. Consideration will always be given as to any possible discriminatory effect of selection criteria on part-time employees.

The selection criteria will be consulted upon with a view to seeking agreement, where possible, with employees and recognised trade unions. This will be done prior to staff being asked, where appropriate, to complete skills audits.

The following sets out examples of selection criteria. The list is neither exhaustive nor in any priority order:

- Area of responsibility
- Curricular and pastoral needs of the school, with reference to the school improvement plan
- Management and organisational needs of the school
- Relevant qualifications
- Relevant skills and experience
- Future skill requirements
- Conduct/capability (relating to *formal* procedures, the level of which would be specified in consultation with trade unions)
- Attendance records (when absence is not related to disability or maternity)

In the vast majority of cases, the above criteria will be sufficient to select individuals for redundancy. However, where further criteria are required to select between employees, consideration may be given to using the scores in one of the above criteria areas (e.g. curricular and pastoral needs of the school) as the determinant (i.e. the employee(s) with the lowest score(s) in this area would be selected for redundancy). If this fails to select between the candidates, then a second area may be examined (e.g. relevant skills and experience). In the extremely unlikely event of it still not being possible to make a selection for redundancy based on the above criteria, then the Selection Panel will use a predetermined 'tie break' criterion in order to conclude the process.

When formulating the selection criteria, consideration will be given to the cost of each individual redundancy (particularly related to LGPS pension costs).

If there is a discriminatory effect to this process, it will be determined whether this is a proportionate means of achieving a legitimate aim. HR advice will be taken on this subject.

SECTION 5 VOLUNTEERS

The Governing Body recognises that a voluntary redundancy scheme can mitigate the need for compulsory redundancies. Before considering compulsory redundancy,

applications will therefore be invited from members of staff who may be willing to be considered for voluntary redundancy.

If the number of volunteers exceeds the number of redundant posts, Governors will apply the same selection criteria as it would for compulsory redundancy.

Before considering voluntary redundancy employees are advised to seek advice from their pensions provider on the impact to their pension and whether they are entitled to early access.

More information on voluntary redundancy, including the consideration of enhancements, is provided in section 8.4.

SECTION 6 REDUNDANCY DURING MATERNITY, PATERNITY AND ADOPTION LEAVE

When dealing with redundancy situations, the Headteacher will ensure that all employees, including those who may be absent from work due to maternity leave or other reasons, are consulted and kept informed.

If a woman is selected for redundancy on the grounds of her pregnancy the dismissal is automatically unfair. However, this does not prevent women who are pregnant from being selected for redundancy on any of the grounds being applied to the staff group affected.

Redundancy during maternity, paternity or adoption leave will end the contractual obligations to both occupational maternity pay and additional paternity leave pay and the right to return. Statutory Maternity Pay (SMP) payments and Additional Statutory Paternity Pay payments are not affected and continue to be paid until the end of the Maternity Pay Period (39 weeks).

Any further SMP payments due to the employee go towards meeting the Governing

Body's obligation in respect of statutory notice pay

An employee on ordinary maternity leave or additional maternity leave or additional paternity leave or adoption leave, who is given notice on the grounds of redundancy will be given priority redeployment status.

In practice, this means that if the post of an employee who is on maternity, additional paternity or adoption leave is included in the redundancy pool, the Governing Body will offer that employee any suitable alternative vacancy in the new structure before it offers it to anyone else, regardless of the employee's return date and even if the employee does not apply for the post or is not the most suitable candidate. If there is more than one employee on maternity, additional paternity or adoption leave and only one suitable vacancy, the most suitable of those candidates will be selected, using the same selection criteria as used elsewhere in the redundancy process.

If a woman who is pregnant or on maternity leave or a man on extended paternity leave is dismissed, the Governing Body will issue them with a written statement giving the reason for dismissal.

SECTION 7 NOTIFYING THE LOCAL AUTHORITY

The Governing Body will identify the following information as early in the restructure process as possible and inform the Local Authority of:

- the reason for the restructure.
- the groups of staff potentially affected.
- the potential number of compulsory redundancies (worst case scenario).
- the potential redundancy costs.
- an explanation of the need for the changes and why they are required (the business case). This will include budget, benchmarking (comparative data) and costing information as appropriate

The Local Authority will use this information – along with the consultation documentation set out in section 3.9 – to consult with trade union representatives at the Children, Young People and Families’ Operations Group. Updates on progress will be provided on a monthly basis until completion of the process.

SECTION 8 CONSULTATION STAGE

The Governing Body recognises that consultation, communication and involvement are vital to any change process, whether or not it will involve redundancies. Consultation will be timely and meaningful. The Headteacher and the Governing Body will consider and respond to any questions, comments or suggestions put forward by employees or union representatives and, if rejecting suggestions, give sound business reasons for doing so.

Consultation covers:

- all employees who may be dismissed on the grounds of redundancy (whether voluntary or compulsory) or whose post may be affected in more than a minor way (including those on sickness, maternity or any other kind of leave).
- the ‘redundancy pool’, that is, those at risk of redundancy (it is important that the redundancy pool is accurately identified at an early stage).
- those who may be indirectly affected by measures taken in connection with redundancies (e.g. staff having to take on re-allocated work).

8.1 Timescales

Although there is no minimum statutory consultation period when making less than 20 employees redundant, the Governing Body will commit to a minimum consultation period of 30 calendar days.

Where there are 20 employees or more to be made redundant, the period of consultation will be in line with the statutory requirements set out overleaf.

Number of employees to be made redundant	Timescale before first redundancy notice is issued
Less than 20 employees	At least 30 days before the first dismissal takes effect
20-99 employees (over a period of 90 days or less)	At least 30 days before the first dismissal takes effect
99+ employees (over a period of 90 days or less)	At least 45 days before the first dismissal takes effect

Please note that the formal consultation period begins on the date that:

- employees are first formally informed of the redundancy situation; or
- trade unions receive notification from the school by the section 188.

8.2 Trade unions meeting

Collective consultation allows trade unions to play an active part in the process. Where a redundancy/reorganisation situation has been identified, the Headteacher (acting on behalf of the Governors' Selection Panel) will, at the earliest opportunity, write to the representatives of all the recognised trade unions to invite them to attend a meeting to discuss the situation. The school may also invite their HR provider to attend this meeting.

The Headteacher will endeavour to give reasonable notice of the meeting, which will usually be held immediately prior to the first meeting with staff.

As part of the consultation, the Headteacher will share the information detailed in section 3.9.

8.3 Staff meeting

A meeting with all employees potentially affected by the staffing review will take place to initiate the formal consultation process. This will be organised by the Headteacher. Wherever possible, a representative of the Selection Panel will also attend, as well as the school's HR adviser. Trade union representatives will also be invited and will be able to hold separate, confidential meetings with their members following the staff meeting.

The purpose of the meeting is to:

- start the consultation process
- explain the situation and discuss possible options or alternatives
- explain the process to be followed and associated timescales
- provide appropriate information, including the proposed selection criteria and methods (if available)
- provide details, if appropriate, of any enhancements for staff members who may apply for voluntary redundancy
- listen to any concerns
- answer any immediate questions from members of staff and union representatives
- Outline the support available

Notes will be taken at this meeting and circulated to all potentially affected employees (including those who were not in attendance) and trade union representatives. These notes will be retained by the school.

This meeting together, where applicable, with the trade unions' receipt of the section 188 letter constitutes the start of the formal consultation process.

Employees who may be affected by the review are:

- expected to engage in the process and with the chosen selection method (e.g. complete a skills audit form; make an expression of interest; attend relevant interview/selection processes, where appropriate).
- entitled to request confidential estimates of redundancy pay for voluntary redundancy.
- entitled to make application for voluntary redundancy, redeployment, reduction in hours as appropriate and without prejudice.
- entitled to request individual meetings with the Headteacher or a nominated senior leader.

- Advised to contact their pensions provider to discuss the possible impact of any potential redundancy.

Written responses to the consultation should be addressed to the Chair of the Governors' Selection Panel. Employees who are selected for redundancy:

- have the right to make representation to the Selection Panel.
- have the right of appeal against the decision of the Selection Panel to the Appeal Panel.
- have the right to be represented by a trade union representative or work colleague at any hearing or appeal.

8.4 Voluntary redundancy

Before considering compulsory redundancy, applications will be invited from members of staff who may be willing to be considered for voluntary redundancy.

KEY DECISION REQUIRED BY THE GOVERNING BODY

Before adopting this policy, the Governing Body must decide whether it will:

Adopt the recognised Local Authority approach of offering enhanced redundancy payments to employees *who volunteer* for redundancy, providing:

- They are under the minimum age to access their pension; or
- They are over this age, but not a member of the pension scheme and so will not therefore be accessing pension benefits
- The enhanced payment is calculated in accordance with the statutory ready reckoner, plus 50% of that entitlement. So an employee who is entitled to 15 weeks' redundancy pay under the ready reckoner formula will, with the enhancement, receive a payment calculated on 22.5 weeks' pay.

Or, exercise the right of Governing Bodies to take an alternative approach, e.g.

- Consult on whether to offer an enhancement, and its value, for each process, or
- Not offer enhanced redundancies

Where schools choose to adopt an approach other than the Local Authority approach outlined above, they need to consult with the relevant Trade Unions to seek agreement on the alternative proposals.

In deciding whether or not to offer enhancements, the Governing Body will take into consideration:

- Whether there is a need to incentivise voluntary redundancy in order to mitigate against compulsory redundancy;
- The potential costs to the school of offering any such enhancements; and
- The financial position of the school and its ability to bear such costs.

Where the option of voluntary redundancy, with or without enhancements, is offered:

- Employees considering voluntary redundancy are entitled to request an estimate of voluntary redundancy payment on a confidential basis.
- Applications for voluntary redundancy are made to the Chair of the Selection Panel within the agreed period for volunteering (normally 30 days).
- The Governors' Selection Panel will consider applications for voluntary redundancy prior to any decision on the posts to be selected for compulsory redundancy.

Since the school has a responsibility to retain those staff who can best meet the needs of the pupils and the school's priorities, some or all of the individuals volunteering might not be selected for redundancy. The Governing Body reserves the right to use its discretion in making a final decision on allowing a volunteer to be released under the voluntary scheme.

- If governors reject an application for voluntary redundancy and, instead, impose a compulsory redundancy they will need to have a sound business case for doing so.
- If the number of volunteers exceeds the number of redundant posts, Governors will apply the same selection criteria as it would for compulsory redundancy.

If the Governing Body is not able to accept any applications for voluntary redundancy, it will explain the reasons to all volunteers. If there are no suitable volunteers for redundancy and the required reduction in staff cannot be achieved in any other way, the compulsory redundancy procedure will commence and the selection criteria applied to the pool at risk.

Employees who volunteer for redundancy can change their mind and withdraw their application at any time before the date specified in the consultation process.

Employees considering applying for voluntary redundancy should be advised to contact their pensions provider to discuss any possible impact on their pension and whether they are able to access their pension as a consequence of redundancy.

8.5 Voluntary transferred redundancy (also known as ‘bumping’)

At the discretion of the Governing Body, employees who are not directly affected may also apply for voluntary redundancy in order that consideration may be given to transferred – or ‘bumped’ – redundancies. In considering any such applications, the Governing Body will give regard to:

- The skills, qualifications and experience of the volunteer and the requirements of that person’s role
- Whether any employees in the redundancy pool have the skills, qualifications and/or experience to undertake the duties of the role vacated by the bumped redundancy
- The cost implications of any such arrangement to the school

8.6 Voluntary reduction in hours

The Governing Body will also consider applications from staff who wish to reduce their hours to mitigate the possibility of redundancy. Please note that staff members wishing to voluntarily reduce their hours are not entitled to redundancy payment in respect of these reduced hours since they are reducing their working time rather than having an element of their post made redundant.

The Selection Panel will make the final decision on any applications for reductions in hours. In doing so, they will work to the same principles detailed in section 8.4 and communicate their decisions in the same way.

8.7 End of consultation period

Following consultation, the Headteacher will present to the Selection Panel the draft staffing structure (where applicable) and implementation plan, and the comments received, including, any formal written submissions from the recognised unions or others as a result of the consultation. The Headteacher will advise of any amendments proposed as a result of the consultation, any proposals not incorporated and the reasons why.

The circulation of documents to the governing body and the recording of its decisions should be made in the normal way.

The Selection Panel will consider the outcome of the consultation very carefully. The options available are:

- to adopt the staffing structure and/or implementation plan with any amendments proposed as part of the consultation which are accepted; or
- propose amendments to the draft structure and/or implementation plan which have not been subject to consultation.

8.7.1 Amending the draft structure

If amendments are made which have not been the subject of consultation, or there are concerns about some of the issues raised during consultation which have not been resolved, the Selection Panel can decide on a further period of consultation with staff and recognised unions. Where this option is adopted the staff and recognised unions should be notified in writing of the timescale of the extended period of consultation and the issues to be addressed during that period. The timescale of any further consultation should be proportionate to the scale of the amendments made by the Governing Body, but should in no case be less than one week.

8.7.2. Finalising proposals

Proposals must go to a meeting of the full Governing Body for approval.

Once the proposal has been approved, the Headteacher will ensure that trade unions and staff are informed. The Headteacher will also advise staff and trade unions of the date on which the implementation plan will commence.

SECTION 9 SELECTION AND APPOINTMENT

Appointment to the new structure will, in most instances, take place top down (that is, appointing to the most senior posts first). Appointment to posts will be based on the guidance contained in this policy. Depending upon changes to the posts in the structure, some posts may be ring-fenced (see section 9.6).

As soon as appointment decisions are made, the applicants will be provisionally offered the posts and asked to confirm, in writing, their acceptance of the offer. Where applicants decline their offer, this must also be in writing, stating the reasons.

Please note that any offers are strictly provisional pending the completion of restructuring process. This is because any if appeals are upheld it may be necessary to recommence the process.

Where posts in the revised structure are not appointed to, these posts will be advertised through normal recruitment procedures.

For staffing reviews see sections 9.1 to 9.7. For compulsory redundancy selection via criteria, see section 9.8.

9.1 Unchanged posts – direct assimilation

Where an employee's post is unchanged in the new structure, and there is the same number of posts as current postholders, the employee will be directly assimilated into the post without the requirement to participate in a selection process. This is often referred to as 'slotting in'.

9.2 Unchanged posts – reduction in the number of posts

Where there are unchanged posts in the new structure, but there is a reduction in the number of posts versus the number of postholders, the group of staff working in that post will be ring-fenced for the remaining positions. A competitive selection process will then take place involving the Governors' Selection Panel. The selection process will be as agreed in the consultation process.

9.3 Deleted posts

Where employees' existing posts are deleted as part of the new structure, they will be ring-fenced for other posts in the structure where applicable. (See information on ring-fencing in section 9.6.)

Where there are no posts within the new structure to which an employee can be ring-fenced, or if an employee is unsuccessful at being appointed to a post following ring-fencing, they are 'at risk' of compulsory redundancy and consideration of redeployment will take place with the Local Authority (see section 17).

9.4 Changed posts

Where there are changed posts within the new structure, consideration will be given to which employees, if any, should be ring-fenced for each post, depending upon suitability in relation to the person specification. (Please refer to information on ring-fencing in section 9.6.)

Where there are equal posts to equal employees, slotting in may be considered, again dependent upon suitability. A post will be considered suitable where there is a 75% job match between the job descriptions of the redundant and the new role.

Should ring-fencing apply, employees in the ring-fenced group will be invited to apply for the changed posts, and may be required to complete a preference form. Selection should be by the selection methods agreed to during consultation.

Where employees are unsuccessful in gaining a post in the new structure they will be given the reason in writing and advised of their status in the process:

- There are other posts in the structure for which they will be considered; or
- They are 'at risk' of compulsory redundancy, and consideration of redeployment will take place.

9.5 New posts

Where there are new posts in the structure, employees will be ring-fenced to apply for the new posts, depending upon suitability in relation to the person specification. The selection process for the new posts will be as agreed during the consultation process. Where applicants are unsuccessful they will be given the reasons in writing.

9.6 Ring-fencing employees

Ring-fence eligibility will be based on:

- Whether posts in the new structure include areas of work that the employee is currently responsible for.
- The existing grade of the employee and proposed grade of the new post.

It must be noted, however, that the primary aim is to avoid redundancies. Therefore, if an employee meets the selection criteria for a higher banded post in the revised structure and a post at an equal pay band is not available to them, then they should be eligible for ring-fencing to that post, provided it is not to the detriment of other employees. This means that employees will not benefit from a restructure at the expense of existing vulnerable employees.

In some instances, employees in ring-fenced groups will have more than one post for which they can apply. Where this is the case, they will be given preference forms to indicate their choice.

The ring-fencing selection arrangements will form part of the consultation process and will take place before consideration is given to the need for internal or external advertisement.

9.7 Offers of suitable alternative employment

Where an employee indicates that they do not feel that the offer constitutes suitable alternative employment, a discussion will take place between the employee, the Headteacher and the school's HR provider. The employee may seek trade union advice prior to this meeting. Where an offer of suitable alternative employment is declined and no other suitable posts are available, the employee must be given a notice of redundancy.

Employees who unreasonably refuse an offer of suitable alternative employment may lose their entitlement to redundancy pay. The reasonableness of a refusal will include consideration of an employee's individual circumstances connected with the pay, status and duties of the post concerned, along with any required changes to travel arrangements. The employee will be required to provide evidence that they have made every reasonable effort to seek alternative work and their reason for refusing offers of such work should be made in writing.

During the notice period suitable alternative employment will continue to be sought for the employee.

9.8 Compulsory redundancy selection via criteria

If there is a reduction of a post, with only one postholder affected, that postholder will automatically be selected for redundancy.

Where there is a reduction in a number of posts and compulsory redundancies cannot be avoided, then the method of competitive selection will be via selection criteria, details of which will be fully explained during consultation.

Information gathered against the selection criteria will provide the sole source of information from which the Selection Panel will make their selection decision. It is therefore important that employees engage fully with these methods of selection.

9.8.1. Skills audit

Where appropriate, affected staff will be asked to complete a skills audit (including self-scoring) and sign this to confirm it is factually complete and accurate. Employees will be advised of a deadline by which they must return their completed audits. The Headteacher will meet with each employee to verify the information provided and discuss with individual employees any points of clarification, including confirmation of the score.

If, during the verification meeting, the Headteacher recognises that a member of staff has omitted a significant piece of information from their skills audit, they may point this out to the individual. This approach will be applied consistently to all staff and, if necessary, a further discussion may be held with any member of staff regarding their form if additional information comes to light before all staff members have completed verification.

The Headteacher will ensure the audits are anonymous prior to providing them to the Selection Committee.

Any employee choosing not to complete a skills audit will be scored by the Headteacher based on their professional knowledge of the employee. Late submissions will only be accepted at the discretion of the Selection Panel. A consistent approach will be taken in respect of all submissions.

9.8.2. Sharing information with the selection panel

Once all completed skills audits have been submitted, the information will be shared with the Selection Panel, which will apply the agreed assessment criteria and make its dismissal and/or appointment decisions. The Governing Body will ensure that both the submissions and the decision-making process will be managed confidentially.

SECTION 10 INFORMING EMPLOYEES

Unless other arrangements have been agreed, the Headteacher and the Chair of the Selection Panel will normally inform employees that they have been selected for potential redundancy in person. Employees will be advised at the same time that they are entitled to an appeal hearing.

Employees will also be advised to contact their trade union representative at this point, if they have not already done so. They will also be advised that a formal letter will be issued to the employee from the Local Authority notifying them of their selection for redundancy and advising them of their right to appeal.

SECTION 11 INSTRUCTING THE LOCAL AUTHORITY TO DISMISS

The Governing Body or its HR provider will inform the Local Authority of any dismissal agreed upon by the Selection Panel. It will also request that the Authority issues a notice of dismissal to terminate the staff member's employment.

The school or its HR provider will provide the following information to the Authority:

- The instruction to dismiss (must be received by the Authority within three days of the dismissal hearing).
- Details RMO start date and of any outstanding payments to which the employee is entitled, including the redundancy calculation, if applicable.
- The completed Chief Officer Panel form (see section 12), including, for support staff, any associated pension costs.

The Executive Director of Children, Young People and Families will then issue the dismissal notice within 14 days of receiving the instruction to dismiss.

If the employee is subsequently redeployed, the Governing Body must notify the LA.

The LA will then write to the employee to confirm that the notice of dismissal is withdrawn.

SECTION 12 THE CHIEF OFFICER PANEL

The purpose of the Chief Officers' Panel is to ensure fair employee termination under law and to manage any financial risk to the employing Authority. There is a statutory requirement (as set out in section 49 of the Schools Standards and Framework Act 1998 and section 37 of the Education Act 2002) for locally maintained schools to gain approval from the Local Authority Chief Officers' Panel for any redundancies for both teaching and support staff. This is because the panel:

- monitors both direct and indirect costs to the Council arising from redundancy payments and early access to pensions.
- mitigates risk to Local Authority of claims for unfair dismissal that may result from a flawed redundancy process.

The Governing Body or the School's HR provider will submit the completed Chief Officer Panel form to the Local Authority within the three days of the dismissal hearing and will attend the panel in person in order to answer any questions.

SECTION 13 NOTICE PERIODS

In order to comply with the statutory requirement set out in the School Teachers' Pay and Conditions Document (STPCD) that the redundancy takes effect at the end of the respective school term, teachers must be given notice of redundancy by 28 February, 31 May or 31 October (or, for Headteachers, 31 January, 30 April or 30 September).

However, teachers are also entitled to statutory notice of one week's notice for every year of continuous service, up to a maximum of 12 weeks. Notice periods for teaching staff may therefore be longer than those set out in the STPCD.

Notice periods for support staff vary according to their length of continuous service. Support staff employees are given one week's notice for each year of service, with a minimum of one month's notice and a maximum of 12 weeks. Contractual notice periods, which can be up to 12 weeks for support staff, must also be taken into consideration.

Employees will receive the period of notice to which they are both legally and contractually entitled whether or not they are entitled to a redundancy payment.

SECTION 14 REDUNDANCY PAYMENTS

An employee who is dismissed by reason of redundancy will be entitled to a redundancy payment providing they have at least two years' continuous service with the Council or related employers as listed under the Redundancy Payments (Continuity of Employment in Local Government) Order 1999.

In accordance with the Employment Rights Act 1996 and the above legislation, when an individual is entitled to a redundancy payment the statutory amount of redundancy pay they receive is calculated on the basis of their age and continuous service at the point of redundancy. These two figures are used to establish how many weeks' salary an individual is entitled to as a redundancy payment.

KEY DECISION REQUIRED BY THE GOVERNING BODY

Before adopting this policy, the Governing Body must decide whether it will:

Adopt the recognised Local Authority approach that calculates redundancy payments on actual weekly salary for all staff members, with the exception of employees who are taking early retirement for reason of redundancy and who did not volunteer prior to the deadline for voluntary applications. In such circumstances their weekly pay would be capped at the statutory maximum.

Or, exercise the Governing Body's right to take an alternative approach e.g.

- Calculate redundancy pay using actual weekly salary for all staff
- Calculate redundancy pay using the statutory maximum weekly pay for all staff, unless actual weekly pay is less than the statutory maximum

Where schools choose to adopt an approach other than the Local Authority approach outlined above, they need to consult with the relevant Trade Unions to seek agreement on the alternative proposals.

The dismissal letter issued by the Local Authority will set out in writing how the redundancy payment was calculated.

In addition, in some circumstances, employees may be entitled to early access to their respective pension scheme (either Teachers' Pensions or the LGPS). Employees are advised at the outset to contact their pensions provider to seek confirmation of this.

Please note that an employee is not redundant and therefore not entitled to redundancy payment if:

- they are secure alternative employment within the same or another local authority, or any other organisation recognised under the Redundancy Modification Order, and:
- the offer is made to them before their notice is effective; and
- the new post commences within four weeks of the effective date of dismissal

In the event of the above, a further letter will be issued by the Local Authority retracting the original dismissal.

SECTION 15 REPRESENTATION TO THE APPEAL PANEL

Employees are entitled to appeal the outcome of the selection process to the Appeal Panel. To do so, the employee must lodge their appeal within five working days, setting out, in writing, the specific grounds for the appeal. These grounds fall broadly within two categories:

- Fair process has not been followed.
- The decision of the panel was flawed or disproportionate.

Employees must be given ten working days' notice of the date of any such hearing and have the right to be represented by a trade union representative or work colleague. Employees are required to confirm attendance and, where applicable, the name and status of their representative.

At the appeal hearing, the Headteacher and Chair of the Selection Panel will present a statement of case, including the selection matrix for all those considered for redundancy, though names will be omitted to preserve confidentiality. The statement of case will include reasons for the redundancy, details about the consultation process and an explanation of the selection criteria. This must be given to the employee, together with a copy of the conduct for the appeal hearing (see section 15.1), five working days prior to the hearing.

The employee statement of case and any documents to be submitted to the hearing should be received by the Appeal Panel two days before the hearing.

The panel may be advised by a HR representative whose role will be to advise on points of law and procedure regarding the case.

If an employee's appeal is upheld, a further letter will be issued by the Local Authority retracting the original dismissal.

Where a decision is upheld by the Appeals Panel, careful thought will be given as to how to proceed. HR advice will be sought by the school and it may be necessary for the process to be completely restarted. Further consultation with the trade unions will need to take place.

15.1 Conduct of the Appeal Hearing

The purpose of the hearing is to consider appeals from employees who have been selected for redundancy.

- The Chair introduces all parties and outlines the purpose of the meeting.
- The Headteacher/Chair of the Selection Panel may make a statement concerning the selection of the employee against the criteria.
- The employee or their representative has the opportunity to ask questions of the Headteacher/Chair of the Selection Panel.

- The members of the Appeal Panel may then ask questions of the Headteacher/Chair of Selection Panel.
- The employee or their representative may make a statement concerning their appropriateness for selection in relation to the agreed criteria.
- The Headteacher/Chair of Selection Panel has the opportunity to ask questions of the employee and their representative.
- Members of the panel may then ask questions of the employee and their representative.
- The Headteacher/Chair of Selection Panel, followed by the employee/representative will then have an opportunity to sum up if they so wish.
- The employee/representative and the Headteacher/Chair of the Selection Panel will then withdraw and the Appeal Panel will consider its decision.
- The Chair will announce the decision of the panel.
- The decision will be confirmed in writing to the employee within five working days and it will be confirmed that there is no further right to appeal.

SECTION 16 CONFIRMING POSTS IN A RESTRUCTURE

Only once the appeals process has been completed, will provisional appointments in the new school structure be confirmed.

SECTION 17 REDEPLOYMENT

Support to find suitable alternative employment will be offered to an employee being dismissed on the grounds of redundancy, and this will continue until the date of redundancy. This process will commence as soon as possible once an individual has been notified of their potential redundancy. (Please refer to the school's Redeployment Policy for further information and guidance.)

Employees who are under notice of redundancy will be entitled to reasonable paid time

off to look for alternative employment (e.g. attendance at interviews).

If a post becomes available in school during the redundancy process, those who are potentially redundant should be considered, providing they have the necessary skills, experience and qualifications.

Under Regulations 10 of the Maternity & Parental Leave etc. Regulations 1999, employees on maternity leave who will not continue to be employed under their existing contract must be offered suitable alternative employment ahead of other employees.